SECOND ANNUAL REPORT

VICTIMS OF CRIME ACT
R.S.P.E.I. 1988, Cap. V-3.1

January 1, 1991 - December 31, 1991

Prince Edward Island, Department of Justice
105 Rochford Street
P. O. Box 2000
Charlottetown, P.E.I C1A 7N8

92-05002/

To: The Honourable Marion L. Reid
Lieutenant Governor
Province of Prince Edward Island

MAY IT PLEASE YOUR HONOUR:

I have the honour to submit the Second Annual Report on the administration of the Victims of Crime Act, R.S.P.E.I. 1988, Cap. V-3.1 pursuant to section 36 of that Act.

I have the honour to be Madam your obedient servant.

Joseph A. Ghiz,
Minister of Justice
and Attorney General

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PART 1 - INTRODUCTION

The Victims of Crime Act, R.S.P.E.I. 1988, Cap. V-3.1 was proclaimed in force September 30, 1989. Regulations and Orders under the Act also came into force on that date.

The Statement of Principles contained in Part I of the Victims of Crime Act set out the following principles for the guidance of persons in providing justice for victims of crime:

(a) Victims should be treated with courtesy and compassion and with respect for their dignity, privacy, and convenience;

(b) Victims should receive prompt and fair financial redress for the harm they have suffered;

(c) Victims should be informed of and should have access to services including social, medical, legal, and mental health assistance;

(d) Victims should be informed about the progress of the investigation and prosecution of the offence, court procedures, the role of the victim in court proceedings, and the ultimate disposition of the proceedings;

(e) Victims are entitled, where their personal interests are affected, to have their views and concerns brought to the attention of the Court where consistent with criminal law and procedure;

(f) Victims and their families should be protected from intimidation, retaliation, and harassment;

(g) Victims should have their stolen property returned to them as soon as possible after recovery by law enforcement authorities.

The other parts of the Act include Victim Services, Victim Assistance Fund, Criminal Injuries Compensation, and General.

PART II REPORT OF THE VICTIM SERVICES ADVISORY COMMITTEE

Part II of the Victims of Crime Act establishes the Victim Services Advisory Committee with representation from "the judiciary, Crown attorneys, court clerks, probation services, law enforcement agencies, the Law Society of Prince Edward Island, the Department of Health and Social Services, community organizations and the general public." Members of the committee are to be appointed by the Minister of Justice for two-year terms.

On December 6, 1990, the Minister of Justice sent letters of invitation to representatives of the above-noted agencies. Committee members and agencies represented are as follows:

Ms. Yvonne Bradshaw, Chair	Transition House Association
Ms. Lyle Brehaut	PEI Rape and Sexual Assault Crisis Centre
Mr. Scott Dickieson	Community Legal Information Association
Mr. Carl Doucette	Probation Services
Mr. Danny Gallant	Health and Social Services
Mr. Roddy Gould/Vince Tuplin	Native Council of PEI
Mr. Richard B. Hubley	Crown Attorneys
Ms. Dorothy Kitson	Court Clerks
Mr. David Riley	Law Society of PEI
Sgt. Lorne Smith	RCMP "L" Division
Deputy Chief Paul Smith	Municipal Police

The Victim Services Coordinator and secretary assist the Committee in its operation. The Director of Community and Correctional Services and the adjudicator from the Legal Services Division attend meetings and provide information upon request.

The Victim Services Advisory Committee decided to meet on a quarterly basis; meetings were held on March 15, June 14, and November 1, 1991.

Topics considered by the committee included: recommendations from the Victim Services Impact Assessment; victim surcharge revenue and collection procedures; reporting of criminal court proceedings by media; victim impact statements; a possible protocol for investigation and prosecution of cases involving persons with special communication needs; and long-term funding for the Victim Services program.

The committee sent a letter to media representatives requesting their cooperation regarding accurate reporting of criminal court proceedings, non-use of labels which focus on disabilities or differences from the general population, and non-use of victims' names or other identifying information.

The next meeting of the Victim Services Advisory Committee is scheduled for February 7, 1992.

Yvonne Bradshaw

Yvonne Bradshaw, Chairperson
Victim Services Advisory Committee

PART III REPORT OF THE VICTIM SERVICES PROGRAM

During 1991, the Victim Services Program continued to operate across Prince Edward Island. Staff included one coordinator, two Victim Services workers, and two part-time secretaries. Victim Services staff follow up from the initial police response to victims of crime and assist victims as their cases proceed through the criminal justice system.

A total of 842 new cases were opened during 1991, an increase of 30 over last year. The 842 victims of crime contacted and offered assistance included: 410 general victims (49%), 244 wife abuse victims (29%), 114 sexual abuse victims (14%), 56 other family abuse victims (7%), and 18 commercial/institutional victims (2%). The number and proportion of sexual abuse victims increased significantly compared to 1990 (from 9% to 14% of total cases.)

Table I illustrates the types of Victim Services cases and the police agency (municipal police department of RCMP detachment) involved in each case. The largest number of cases continue to come from the Charlottetown Police Department (246 or 29%), although not as many as last year. Cases from most RCMP detachments and St. Eleanors Municipal Police increased significantly compared to 1990.

The types of crimes committed against these victims were most frequently assaults (422 or 50%); sexual assaults (116 or 14%); threats (67 or 8%); harassment (52 or 6%); and break and enter (50 or 6%). The remainder consisted of a variety of types of crime including 36 cases of property damage, 28 cases of theft, 4 cases of robbery, and 3 cases of murder/attempted murder/manslaughter.

In 1991, approximately 70% of Victim Services new clients were female. Age range distribution of Victim Services clients was 54% in the 21-40 age range, 23% in the 12-20 age range, 15% in the 41-60 age range, 4% in the under 12 age range, and 4% in the 61 and over age range.

Assistance provided to victims of crime included: information about case status, the criminal justice system, and court procedures; investigations of applications for criminal injuries compensation; emotional support and short-term counselling; referrals for legal, financial, and long-term counselling services; and assistance through the court process and with the preparation of victim impact statements. Because the level of assistance varied depending on the needs of the particular victim, the time involved with each case ranged from a few minutes (e.g., providing information about available services and/or cases status) to many hours.

Victim impact statements outline the physical, emotional, and financial effects of the crime on the victim. After a finding of guilt the judge may take a victim impact statement into consideration when deciding on sentence. During 1991, Victim Services staff assisted with the preparation and filing of approximately 170 victim impact statements.

Under the Victims of Crime Act, Part IV, Victim Services is responsible for investigating claims for criminal injuries compensation. Victim Services staff also assist victims with preparing their applications and gathering information to support their claims. A lawyer within the Legal Services Division adjudicates claims.

A special contribution agreement with the federal Department of Justice assisted the Province in establishing the Victim Services Program. This agreement ended March 31, 1991. The Final Report for the agreement included two volumes: A System-based Approach to Assisting Victims of Crime prepared by the Victim Services Coordinator and Victim Services IMpact Assessment prepared by consultant Julie Devon Dodd.

An information kit including summaries of the above-noted reports was distributed to approximately 100 contact people in other provinces and territories. It is interesting to note that Newfoundland and NOva Scotia are currently establishing Victim Services programs modeled on Prince Edward Island's criminal justice system-based approach.

T A B L E I

Department of Justice - Victim Services

VICTIM CASE CLASSIFICATION - JAN/01/91 TO DEC/31/91

Police Jurisdiction	Commercial/ Institutional	General	Sexual Abuse	Wife Abuse	Other Family Abuse	TOTAL
Anderson House	0	0	0	1	0	1
Alberton	7	31	3	13	8	62
Borden Police	0	0	2	1	0	3
Borden RCMP	0	3	0	2	3	8
Summerside CFB	0	0	1	0	0	1
Charlottetown City Police	0	143	17	73	13	246
Charlottetown RCMP	0	38	34	40	9	121
Family	0	0	1	0	0	1
Kensington Town Police	0	4	0	1	0	5
Montague RCMP	1	30	13	20	8	72
Other	0	1	0	0	0	1
St. Eleanors	0	3	13	7	1	24
Summerside RCMP	6	44	5	22	5	82
Summerside Town Police	3	74	6	34	1	118
Sherwood/Parkdale RCMP	0	14	7	20	5	46
Souris RCMP	1	25	12	10	3	51
GRAND TOTALS	**18**	**410**	**114**	**244**	**56**	**842**
PERCENTILE	**2**	**49**	**14**	**29**	**7**	**100**

PART IV - CRIMINAL INJURIES COMPENSATION PROGRAM

INTRODUCTION

Prince Edward Island's Program for criminal injuries compensation is contained in Part IV of the Victims of Crime Act, which was proclaimed in force September 30, 1989. With the proclamation of the Prince Edward Island Act, all provinces and territories of Canada now have criminal injuries compensation programs.

The Victims of Crime Act is not retroactive; criminal injuries compensation can only be awarded in respect of an injury or death resulting from an act that occurred after September 30, 1989.

"TRIGGER" FOR AWARD

In general, a claim for criminal injuries compensation may arise in the event of injury or death by an act that OCCURRED IN PRINCE EDWARD ISLAND, and that injury or death must have directly resulted from the commission of a criminal offence prescribed in the Regulations under the Victims of Crime Act. The applicant need not be a resident of Prince Edward Island.

The term "injury" is specifically defined in the Victims of Crime Act to mean actual bodily harm, including pregnancy, and mental or nervous shock. If a person suffers only property damage as a result of a prescribed crime, he or she is not eligible for criminal injuries compensation. It is not necessary that anyone be prosecuted or convicted for the crime, but an award may be delayed pending the outcome of the criminal process.

The Victims of Crime Act also contains a "Good Samaritan" clause which provides that criminal injuries compensation may be awarded if the victim was assisting a police officer, or trying to stop or lawfully arrest someone committing or about to commit a crime. In the case of a Good Samaritan, the offence need not be included in the list prescribed by the Regulations under the Victims of Crime Act.

ELIGIBLE APPLICANTS

Compensation may be awarded:

1. To or for the benefit of the victim;

2. To any person in respect of expenses which they may have incurred as a result of the victim's death;

3. To any person who suffers monetary loss as a result of the victim's injury, as long as the maintenance of the victim is the responsibility of that person (for example, a parent or guardian of the victim); or

4. To any one or more of the dependents of a victim.

If the victim is culpable in relation to the offence or at the time of the offence was engaged in unlawful activity, criminal injuries compensation may be reduced or denied. Any behaviour on the part of the victim that contributed to the injury or death must also be considered when the claim is being assessed.

COMPENSABLE LOSSES

Compensable losses include the following:

1. Pain and suffering from personal injuries;

2. Reasonable funeral expenses;

3. Loss of income resulting from total, partial or temporary disability affecting the victim's capacity for work;

4. Financial loss suffered by dependents as a result of a victim's death;

5. Costs of maintaining a child born as a result of sexual assault;

6. Costs of treatment of mental and nervous shock;

7. Monetary loss resulting from grief or sorrow as a result of a victim's death;

8. Other monetary loss resulting from the victim's injury, and any other expense that, in the opinion of the Minister of Justice, it was reasonable to incur.

CALCULATION OF THE AWARD

The Victims of Crime Act directs that the amount of compensation be calculated in the same way as an assessment of damages in a private civil action. However, deductions must be made for any amounts recovered from the person who caused the injury, and any benefits received as a result of the incident under any federal or provincial statute other than benefits under a pension plan (e.g., unemployment insurance, workers' compensation, accident and disability insurance will be deducted, but Canada Pension Plan disability benefits will not be deducted).

MAXIMUM AWARDS

The maximum amount payable to ALL APPLICANTS in respect of the injury or death of one victim is $15,000. The maximum amount payable to ALL APPLICANTS in respect of one occurrence (that is, one incident resulting in injury or death to more than one victim) is $30,000. The award cannot exceed these limits.

TIME LIMIT

An application for criminal injuries compensation must be made within one year of the date of the injury or death, but the Minister of Justice may extend the time in special circumstances.

RIGHT OF APPEAL

The decision of the Minister of Justice on a criminal injuries compensation claim may be appealed to a judge of the Supreme Court, Trial Division on any question of law.

VARIATION OF AN AWARD

An award may be varied at any time upon the filing of an application for a variation by any interested person.

SUBROGATION RIGHTS

An applicant is required to notify the Minister of Justice of any civil action he or she initiates against the person who caused the injury or death.

PROCEDURE

An applicant need not retain the services of a lawyer to make a criminal injuries compensation claim.

Victim Services staff are available to assist with completion of the application form. Once the application form is completed, Victim Services staff conduct an investigation and the result of that investigation is forwarded to the Adjudicator in the Department of Justice. Shauna Sullivan Curley, a solicitor with the Department of Justice, has been designated by the Minister of Justice as the Adjudicator. She reviews the application and all supporting documentation and makes a recommendation in writing to the Minister with respect to eligibility for compensation and the amount of compensation. The Minister of Justice then makes his decision on the claim.

An exception to this procedure is when the claim is for less than $250. For small claims, either Ellie Reddin, Co-Ordinator of Victim Services or Phil Arbing, Director of Community and Correctional Services, determines the eligibility of the applicant, fixes the amount of the claim, and makes an order for compensation.

Interim compensation may be paid to an applicant in respect of maintenance and medical expenses if

(a) the applicant is in actual financial need, and

(b) it appears to the Minister or an officer designated to act on behalf of the Minister that a criminal injuries compensation award will probably be granted.

COST-SHARING

Compensation awarded under the Victims of Crime Act is cost-shared between the Federal Government and the Government of Prince Edward Island. The contribution of the Federal Government amounts to 50% of the amount of the awards.

VOLUME OF APPLICATIONS

During the past year 62 applications were filed for criminal injuries compensation, 24 of which were carried over from last year. Forty-nine decisions were made, consisting of 40 final and two interim (an interim and a final decision were made to the same person) and seven applications were refused. Three applications were withdrawn and ten applications are being carried forward into the next year.

* The files carried forward into next year consist mainly of those in which applications have been received, but all the supporting documentation (e.g., medical reports, confirmation of lost wages) has yet to be obtained.

APPLICATIONS - STATISTICAL SUMMARY
January 1, 1991 - December 31, 1991

Applications received		62
Decisions made		49*
Final	40	
Interim	2	
Awards refused	7	
Applications withdrawn		3**
Applications carried forward to next year		10***

* An interim and a final award were made to the same applicant.

** One application for extension of time made but withdrawn.

*** These include applications awaiting completion of investigation, as well as fully investigated claims awaiting decision as of December 31, 1991. Also, one application for an extension of time was granted.

CRIMES INVOLVED IN COMPENSATION DECISIONS
made January 1, 1991 - December 31, 1991

Criminal Code Section		Number of Applications
267	(assault causing bodily harm)	22
266	(Assault)	14
235	(Murder)	6
268	(Aggravated Assault)	1
253	(Operating a Vehicle while impaired-not covered)	4
221	(Bodily harm by criminal negligence)	1
		48

COMPENSATION PAID OUT
January 1, 1991 - December 31, 1991

TOTAL AMOUNT PAID OUT TO APPLICANTS	$ 89,980.48
Pain and suffering	$ 58,533.00
Out-of-pocket expenses*	$ 31,447.48

* Does not include medical reports.

REASONS FOR REFUSALS

Reason	Number
Crime not covered by regulations under Victims of Crime Act (Sec.253 CC)	4
Offence not proven	3
Total applications refused	7

CRIMES INVOLVED IN COMPENSATION APPLICATIONS
Filed January 1, 1991 - December 31, 1991

Criminal Code Section	Number of Applications
267(1)(b) (assault causing bodily harm)	29
267(1)(a) (assault with a weapon)	3
266 (Assault)	16
235 (Murder)	6
268 (Aggravated assault)	1
253 (Impaired driving - Not covered)	4
221 (Bodily harm by criminal negligence)	1
249(1)(a) (Dangerous Operation of a Motor vehicle)	2
	62

COMPENSATION AWARDED BY OFFICE LOCATION

Charlottetown	26	(an interim award and a final award to same applicant)
Summerside	15	
	41	

APPLICATIONS FILED BY LOCATION OF OFFENCE

Charlottetown	25
Summerside	17
Cornwall	1
Tignish	2
Montague	5
Kinkora	1
Wilmot	1
Maximville	1
Lennox Island	1
St. Eleanors	1
Sherwood	2
Alberton	1
Hebron	1
Borden	1
Port Hill	1
Travellers Rest	1
	62

AGE AND SEX OF VICTIMS
(Based on Compensation Awarded)

Age	# Victims		
1-10	3		
11-20	11		
21-30	14		
31-40	7		
41-50	4		
51-60	2		
61-70	0		
70+	1		
Total	42		
Male Victims	23	Oldest victim	84
Female Victims	19	Youngest victim	3
	42		

CATEGORIES OF VICTIMS
January 1, 1991 - December 31, 1991

GENERAL VICTIMS	41
WIFE ABUSE VICTIMS	16
SEXUAL ABUSE VICTIMS	1
OTHER FAMILY ABUSE	4
	62

EXAMPLES OF DECISIONS MADE
(Summaries Only)

7500-10
& 7500-11

A 50 year old male applicant applied on behalf of himself and his three minor grandchildren aged 11, 5 and 3, with respect to the murder of his daughter (the childrens' mother) by her estranged husband. The Applicant father incurred expenses as a result of the death of his daughter and the applicant children were eligible as dependents of the victim. Each applicant was awarded a percentage of the maximum amount of compensation that may be awarded to all applicants in respect of the death of one victim, namely $15,000.00. The applicant father was awarded 6% ($900.00) and the applicant children were awarded as follows: 11 year old male - 23% ($3,450.00), 5 year old female - 34% ($5,100.00) and 3 year old male - 37% ($5,550.00).

7500-13

The 42 year old male applicant was subjected to an unprovoked assault by a lone assailant at a hockey game. The applicant suffered a fractured left cheekbone, a black eye and cuts under the eye and inside his mouth. The applicant underwent day surgery on his cheekbone, was unable to work for three weeks and was advised by his doctor that he would suffer no permanent disability. Some five months after the incident the applicant still experienced some numbness on the left side of his nose and cheek. The applicant was awarded $2500.00 for pain and suffering and $113.83 for transportation expenses.

7500-17 The 25 year old female applicant was assaulted by another female in her apartment. The applicant suffered a fracture of the right nasal bone and required surgery. She was kept in hospital overnight. The applicant experienced pain after the operation, had a cast on her nose for ten days and splints inside her nose for three weeks. She suffered headaches that were like migraines and had trouble breathing. The applicant suffered anxiety after the attack and for more than two months she was depressed, reclusive and afraid. The applicant was awarded $2000.00 for pain and suffering less $150.00 restitution for a total award of $1,850.00.

7500-50 The 31 year old female applicant was grabbed and punched by her ex-boyfriend while trying to leave a dance. The applicant had mild swelling on the left side of her neck and pain in her jaw. Her left bottom molar was chipped. The applicant also suffered anxiety-related symptoms consisting of claustrophobia, a panic reaction, and a fear of being alone. The applicant's physical injuries were minor in nature but her anxiety-related symptoms were sufficiently severe as to qualify as nervous shock within the meaning of the Victims of Crime Act. The applicant was awarded $1,500.00 for pain and suffering.

EXAMPLE OF AWARD REFUSED
(Summaries Only)

7500-27

The 22 year old male applicant claimed to have been assaulted by two males, resulting in multiple fractures of his jaw and considerable damage to four of his teeth. He was hospitalized and underwent surgery on his jaw, resulting in his jaw being wired for approximately two months. The police reported that the applicant was the instigator of the fight and there were no witnesses to the fight as the Applicant and at least one of the two males walked into an alley, out of sight. The applicant had been drinking prior to the incident and does not remember any of the events between the time he exchanged words with the two males and when he woke up in the hospital. The offence was not proven and the applicant's contributory behavior and victim culpability resulted in his claim for criminal injuries compensation being refused.

PART V - VICTIM ASSISTANCE FUND

PROVINCE OF PRINCE EDWARD ISLAND
VICTIMS ASSISTANCE PROGRAM
SUMMARY OF REVENUES AND EXPENDITURES

	FORECAST YEAR ENDED MARCH 31/92	ACTUAL YEAR ENDED MARCH 31/91	ACTUAL YEAR ENDED MARCH 31/90	ACTUAL YEAR ENDED MARCH 31/89
REVENUES				
Fine surcharges - Federal Offences	45,000	47,712	10,720	
Fine surcharges - Provincial Offences	160,000	166,313	41,550	
Federal Cost-Sharing	125,800	31,900	156,795	94,585
TOTAL REVENUE	330,800	245,925	209,065	94,585
EXPENDITURES				
Administration	9,500	5,975	6,121	6,994
Equipment	1,000	1,240	1,067	14,097
Materials and supplies	4,500	3,487	1,720	2,300
Professional services		10,000	9,300	7,250
Salaries and benefits	162,100	150,004	132,345	58,232
Travel	7,200	7,876	10,659	3,476
Criminal Injuries Compensation Awards	80,000	50,420	822	
TOTAL EXPENDITURES	264,300	229,002	162,034	92,349
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENDITURE FOR THE YEAR	66,500	16,923	47,031	2,236
VICTIM ASSISTANCE FUND				
Balance, beginning of year	49,267	49,267	2,236	
Balance end of year	115,767	66,190	49,267	2,236

See accompanying notes

VICTIMS ASSISTANCE PROGRAM

NOTES CONCERNING REVENUES AND EXPENDITURES

1. GENERAL:

It is intended that the costs of The Victims Assistance Program be funded from a surcharge on fines and federal cost sharing.

2. FEDERAL COST SHARING:

The Federal Government has provided cost sharing for this program under two separate agreements. Under one agreement, which is intended to be an on-going one, the Federal Government will pay 50% of criminal injuries compensation awards to a maximum of $50,000 per annum plus a maximum of $50,000 towards the operating costs of The Victims Assistance Program. This agreement, which expired March 31, 1990, is expected to be renewed, effective April 1, 1990.

The Federal Government also provided special start-up funding under a separate agreement which expires March 31, 1991.

3. ACCOUNTING PROCEDURES:

All revenues and expenditures related to The Victims Assistance Program are recorded in the accounts of the Province and included in the Public Accounts.